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VIA ECFS

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW, Room TW-A325
Washington, DC 20554

EX PARTE

Re: Docket 18-295

Dear Ms. Dortch:

On October 2, 2018 the Commission released for public comment a draft of this NPRM on unlicensed use of 6 GHz, Docket 18-295¹. These comments do not question the substance of the NPRM and are limited to pointing out a historic error in the background that is given and requesting it be corrected in the version adopted by the Commission.

In para. 3 the draft states,

When the Commission first made the 2.4-2.4835 GHz and 5.725-5.875 GHz bands available for unlicensed use under our Part 15 rules in 1989, few could have anticipated the explosion of innovation that followed.* These bands have become the focal points for wireless standards—such as Wi-Fi, Bluetooth, and Zigbee—that enable seamless communication among and between countless wireless devices. Wi-Fi, in particular, has become indispensable for providing high data rate local area network connections for smart phones, tablets, mobile computers, and other devices to interconnect and access the Internet. Wi-Fi has also enabled the offloading of data from commercial wireless networks as consumers increase use of smart phones for applications such as streaming video and gaming, and it has provided a means for devices throughout the home to wirelessly interconnect. Unlicensed consumer devices such as cordless phones, video gaming consoles, security systems, home appliances, garage door openers, and baby monitors have proliferated in these bands since the Part 15 rules were adopted.

** Revision of Part 15 of the Rules regarding the operation of radio frequency devices without an individual license, GN. Docket No. 87-389, First Report and Order, 4 FCC Rcd 3493, 3502, paras. 55-60 (1989).*

¹ <https://docs.fcc.gov/public/attachments/DOC-354364A1.pdf>

The 1989 date attributed to the Part 15 decision on the ISM bands is incorrect. The drafters probably found this date in the Code of Federal Regulations codification of the Commission's Rules². Indeed, this is the date given for the *Report and Order* in Docket 87-389 which was a major review of Part 15 which recodified many old provisions, revised some, and added some new provisions. The present § 15.247 section number dates from that *R&O*. However, the first iteration of this rule was adopted in the *First Report and Order* in Docket 81-413³ which was approved by the Commission on May 9, 1985⁴ and released on May 24, 1985. At that time the unlicensed ISM band provisions were initially codified as § 15.126. These provisions have been updated and expanded over the years. While Docket 87-379 is historic for many parts of unlicensed rules and introduced some new regulatory concepts unrelated to the ISM bands, it was not the creation of the unlicensed ISM band provisions rather an update and recodification.

Thus "the Commission first made the 2.4-2.4835 GHz and 5.725-5.875 GHz bands available for unlicensed use under our Part 15 rules" in **1985**, not 1989 (emphasis added). If the Commission wants to give a more detailed chronology of the evolution of these rules, the 1989 date could also be included as the date of the current codification, although the rules and policies for the ISM band have actually had many evolutionary changes since 1985.

Sincerely,

/s/

Michael J. Marcus, Sc.D., F-IEEE
Director

cc: Julius Knapp, Michael Ha, Nicholas Oros

² <https://www.gpo.gov/fdsys/pkg/CFR-2010-title47-vol1/pdf/CFR-2010-title47-vol1-sec15-247.pdf>

³ http://www.marcus-spectrum.com/resources/Cited-documents/RandO_81-413.pdf

⁴ <http://www.youtube.com/watch?v=Z0xhFrCl1HQ>